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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,924	12/29/2003	Jeffrey Mark LaFortune	19457	7068

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EXAMINER

MATZEK, MATTHEW D

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/747,924

Applicant(s)

LAFORTUNE, JEFFREY MARK

Examiner

Matthew D. Matzek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 20-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. The Amendment dated 11/10/2005 has been considered and entered into the Record. Claims 1-34 are currently pending and claims 20-34 have been withdrawn from consideration. The amended claims contain no new matter. The rejection of claims 1-19 under 35 U.S.C. § 112 second paragraph following explanation and amendment by Applicant.

***Election/Restrictions***

2. Claims 20-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/10/2005.
3. Applicant traverses the Restriction by stating that Groups I, II and III all contain claims pertaining to an absorbent article. Examiner agrees that Groups I, II and III contain claims pertaining to an absorbent article, however, because these inventions are distinct for the reasons in the previous Office Action and have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-12 and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Cook et al. (US 6,562,743 B1) for reasons substantially set forth in the Office Action dated 8/10/2005.

***Claim Rejections - 35 USC § 103***

5. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (6,562,743 B1) as applied to claim 1 above, and further in view of Kellenberger (US 5,147,343) for reasons substantially set forth in the Office Action dated 8/10/2005.

***Double Patenting***

6. Claims 1, 3, 4, 5, 7-10, 15-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 10/734,004 for reasons substantially set forth in the Office Action dated 8/10/2005.

***Response to Arguments***

7. Applicant's arguments filed 11/10/2005 have been fully considered but they are not persuasive.

8. Applicant argues that the invention of Cook et al. "Cook" inhibits the rate of swelling of the SAP particles, but the instantly claimed article is directed to article that has been treated to promote the expansion of the composite. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., promoting the expansion of the composite) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. In anticipation of Applicant's amendment of the instant claims to include the property of "promoting the expansion of the composite" Examiner has provided a response to such an

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amendment. Examiner agrees with Applicant that the polyvalent metal ion treatment inhibits the swelling of the SAP particles to enable liquid (col. 4, lines 8-15), however the extent of swelling of the SAP particles is not significantly affected (col. 4, lines 15-19). By slowing the rate of swelling of the SAP particles the number of SAP particles in the absorbent core may be increased without experiencing gel block or loss in permeability of the core (col. 3, lines 54-60). This allows for better utilization of the absorbent core via increased absorbency (col. 3, lines 61-65). Therefore, the treatment of the SAP particles allows for more efficient expansion of the composite by increasing permeability of the core and increasing the number of SAP particles available for use within the absorbent core.

10. Applicant argues that Cook does not mention surface charges or repulsive forces between the components of an absorbent composite upon fluid insult of the composite. Examiner takes the position that as the absorbent article of Cook is treated with the same polyvalent metal ion throughout all of the treated surfaces will possess the same charge. Having the same charge results in repulsive forces. Therefore the treated article of Cook inherently possesses the instantly claimed surface charges which create repulsive forces between said composite components upon fluid insult of the article.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm

*MDM*



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